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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,099	02/19/2004	Kelly S. Smith	23-0296	4754
40158	7590	07/27/2005	EXAMINER	
LEONARD & PROEHL, PROF. L.L.C. 3500 SOUTH FIRST AVENUE CIRCLE SUITE 250 SIOUX FALLS, SD 57105			GOODWIN, JEANNE M	
			ART UNIT	PAPER NUMBER
			2841	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

sm

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/782,099	SMITH, KELLY S.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jeanne-Marguerite Goodwin	2841	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/19/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4,340,808 to Donohoo.

**As per claim 1:** Donohoo discloses a timepiece for displaying a time to be read by a user, the timepiece comprising a housing assembly (10) adapted for being worn by the user, e.g., on ones back, further, it has been held that the recitation that an element is “adapted” to perform a function is not positive limitation but only requires the ability to so perform. A timing assembly (23) being positioned in said housing assembly (10), said timing assembly (23) being operationally coupled to a power supply (22) such that said power supply (22) supplies power said timing assembly (23), said timing assembly (23) being adapted for providing a pulse every second when said power supply (22) supplies power to said timing assembly (23), a processing assembly (26) being positioned in said housing assembly (10) being positioned in said housing assembly (10), said processing assembly (26) being operationally coupled to said timing assembly (23) such that said processing assembly (26) receives the pulse from said timing assembly (23) and processes the pulse into a time to be displayed on a display member (13 and/or 14) operationally coupled to said processing assembly (26), said processing member (26)

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displaying minutes calculated by said processing assembly in hundredths of an hour (see column 2, lines 66-68).

**As per claim 2:** Further, Donohoo's timepiece comprises said housing assembly (10) comprising a main member (17 and/or 15), said display member (13 and/or 14) being coupled to said main member (17 and/or 15) such that said display member (13 and/or 14) is adapted for being selectively viewed by the user, said main member (17 and/or 15) being adapted for being worn on the user to allow the user to selectively view said display member (13 and/or 14). Furthermore, it has been held that the recitation that an element is "adapted" to perform a function is not a positive limitation but only requires the ability to so perform. See *In re Hutchinson*, 69 USPQ 138.

**As per claim 4:** Further, Donohoo's timepiece comprises a plurality of buttons (11) being operationally coupled to said housing assembly (10), each of said buttons (11) being operationally coupled to said processing assembly (26), each of said buttons (11) being for actuating said processing assembly (26), each of said buttons (11) being for actuating said processing assembly (26) for altering the information displayed on said display member (13 and/or 14) when said buttons (11) are actuated by the user.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donahoo in view of US Patent 6,556,222 to Narayanaswami.

Donahoo discloses a device as stated above with regards to claims 1, 2 and 4. Donahoo discloses all subject matter claimed by applicant with the exception of the limitation stated in claim 3, i.e., the housing assembly comprising a plurality of strap members, each of the strap members being coupled to a main member such that each of the strap members extends outwardly from the main member, one of the strap members being selectively coupled to the other one of the strap members such that the strap members form a loop, the strap members being selectively positioned around an arm of the user to couple the main member to the user; the limitation stated in claim 5, i.e., a watch comprising an information display area displaying the date; and the limitations stated in claim 6, i.e., the housing assembly comprising a plurality of strap members, each of the strap members being coupled to a main member such that each of the strap members extends outwardly from the main member, one of the strap members being selectively coupled to the other one of the strap members such that the strap members form a loop, the strap members being selectively positioned around an arm of the user to couple the main member to the user; and the limitation, i.e., a watch comprising an information display area displaying the date.

**As per claim 3:** Narayanaswami discloses wearable mobile computing device, e.g., a wrist watch, comprising a mobile housing assembly (see Fig. 1) and strap members (see Fig. 1), wherein the strap members form a loop. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to replace the housing

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assembly of Donohoo, with the housing assembly, as taught by Narayanaswami, in order to reduce both size and power requirements, as already suggested by Narayanaswami.

**As per claim 5:** Further, Narayanaswami's device comprises a calendar event function which is displayed on a display (300) (see column 7, lines 38-60). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add the calendar event function, as taught by Narayanaswami, to the processor/display assembly of Donohoo, in order to have the ability to maintain calendars and appointments, as already suggested by Narayanaswami.

**As per claim 6:** All of the limitations are rejected as stated above with respect to claims 1-5, respectively.

#### ***Conclusion***

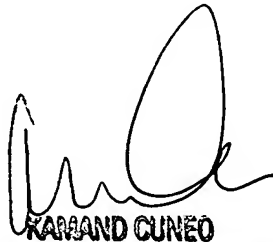
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 disclose related devices. US Pub. 2005/0007888 to Jolidon discloses a display element displaying current time and an alternative display of time; US Patent 4,195,220 to Bristol et al. discloses a portable elapsed time recorder display different modes of time; and US Patent 4,478,521 to Evans et al. discloses a digital time meter processing and displaying one-hundredths of an hour.

6. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Examiner Jeanne-Marguerite Goodwin whose telephone number is (571) 272-2104. The examiner can normally be reached on Monday-Friday (9am-6pm), alternate Fridays off. The fax phone number for the organization where this application or proceeding is

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assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2861.

JMG  
July 25, 2005



**RAMAND CUNEO**  
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